

REMARKS

Applicants filed a Response to Restriction Requirement and Amendment under 37 C.F.R. § 1.111 on August 21, 2008. In the amendments, Applicants among other things changed the font of some claim terms to remove italics. In no case did Applicants identify a claim as "Currently Amended" on the sole basis that a font was changed.

On November 17, 2008, the Office mailed a Notice of Non-Compliant Amendment. The Notice alleges the amendment does not comply with 37 C.F.R. § 1.121(c) on the sole grounds that Rule 121(c) mandates identifying a claim as "Currently Amended" if a font is changed.

37 C.F.R. § 1.121(c) makes no such requirement. Rule 121(c) is silent on whether a change of font constitutes a claim amendment. In fact, Rule 121(c) instead requires underlining, brackets, or strikethroughs only when *text* is added or deleted:

The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived.

To the extent that Applicants' amendment filed August 21, 2008, did not change the text of any claims, the claims thus are properly identified as "Original." Rule 121(c) clearly indicates that the Office is mistaken when it requires identification of claims as "Currently Amended" on the basis of font changes.

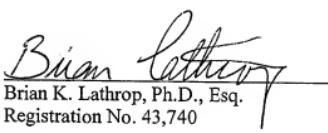
Because the Office is in error, Applicants request that the Office withdraws the Notice, indicates this clearly in the Office's next communication, and states on the record that the term of a patent issuing from the present application will not be reduced for any delay on Applicants' part.

CONCLUSION

The claims are in proper form for examination on the merits, and the same is respectfully requested. Should the Examiner have any questions or need further clarification in this matter, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

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